



City of Norfolk

Office of the City Manager

C: ACM Stein

September 19, 2006

To the Honorable Council
City of Norfolk, Virginia

Re: Ordinance to Repeal Earlier Ordinance
and Approve Ordinance to Lease to
Junior League of Norfolk-Virginia Beach,
Inc. - Taylor-Whittle House - 227 West
Freemason Street, Norfolk, Va.

Ladies and Gentlemen:

I. **Recommended Action:** Adopt ordinance.

II. **Overview**

This agenda item authorizes the repeal of Ordinance No. 42,321, adopted June 27, 2006, related to a 20-year lease of the Taylor-Whittle House, 227 West Freemason Street, by the Junior League of Norfolk-Virginia Beach, and authorizes the execution of a 5-year Lease Agreement, instead. The purpose of the Lease Agreement is to provide business offices for the operations of the Junior League. The requirement is to allow for technical compliance to charter provisions.

III. **Analysis**

A. **General**

The Junior League is the current tenant of the Taylor-Whittle House, 227 West Freemason Street. The intent of this Ordinance is to repeal Ordinance No. 42, 321, dated June 27, 2006, which permitted a 20-year lease of the premises and replace it with a 5-year lease which commences October 1, 2006 and terminates September 30, 2011, unless terminated sooner. Under the charter a lease of more than 5-years requires a formal RFP and franchise process which the City did not conduct.

The Junior League originally requested and the City agreed to enter into a long term lease (20-years) to allow the organization a sufficient period of time to recoup their investments on an anticipated rehabilitation of the property. We still intend to move toward a formal 20-year lease but need an interim lease. The interim 5-year Lease Agreement allows the Junior League continuing use of the property for business offices while they finalize their plans for a capital campaign to be able to pay for the renovations and the City needs time to conduct the required procurement process.

B. Fiscal

By the terms of this Lease Agreement, the Junior League will pay annual rent of \$1 per year to the City of Norfolk. Please note that as part of this agreement, the Junior League will undertake a capital campaign for the purpose of paying for renovations to the Taylor-Whittle House.

C. Environmental

There are no environmental issues associated with the use of the premises by the Junior League.


D. Community Outreach/Notification

In accordance with the Norfolk City Charter and Virginia state law, a public hearing is required for this item. Public notification for this item was conducted through the City of Norfolk's agenda notification process.

IV. Conclusion

This agenda item authorizes the City Manager to execute a lease agreement with the Junior League, the current tenant of the Taylor-Whittle House; therefore it is recommended that City Council adopt the attached ordinance.

Respectfully submitted,



Regina V.K. Williams
City Manager

Coordination/Outreach

This letter has been coordinated with the Office of Real Estate and the City Attorney's Office.

sd 7/18/06

Form and Correctness Approved: *BAP*

Contents Approved:

By *Mary L. G. A.*
Office of the City Attorney

NORFOLK, VIRGINIA

By *Stanley J. Hester*
DEPT. Executive**ORDINANCE No.**

AN ORDINANCE REPEALING ORDINANCE NO. 42,321, ADOPTED ON JUNE 27, 2006, RELATING TO A 20-YEAR LEASE OF THE TAYLOR WHITTLE HOUSE BY THE CITY TO THE JUNIOR LEAGUE OF NORFOLK-VIRGINIA BEACH, INC., APPROVING A 5-YEAR LEASE AGREEMENT WITH THE JUNIOR LEAGUE OF NORFOLK-VIRGINIA BEACH, INC., FOR PROPERTY LOCATED AT 227 WEST FREEMASON STREET, KNOWN AS THE TAYLOR-WHITTLE HOUSE AND AUTHORIZING THE EXECUTION OF THE LEASE.

- - -
WHEREAS, Ordinance No. 2,321 was adopted on June 27, 2006, approving a 20-year Lease of the Taylor Whittle House to the Junior League of Norfolk-Virginia Beach, Inc.; and

WHEREAS, the City and the Junior League wish to enter into a 5-year Lease instead at this time; now, therefore

BE IT ORDAINED BY THE COUNCIL of the City of Norfolk:

Section 1:- That Ordinance No. 42,321, adopted on June 27, 2006, regarding a 20-year lease of the Taylor-Whittle House to the Junior League of Norfolk-Virginia Beach, Inc. is hereby repealed.

Section 2:- That a Lease Agreement between the Junior League of Norfolk-Virginia Beach, Inc. and the City of Norfolk, a copy of which is attached hereto, whereby the City leases to the Junior League the premises known as the Taylor-Whittle House, situated at the southeast intersection of Freemason Street and Duke Street, and numbered 227 West Freemason Street, to be used as office space for the term of Five (5) years beginning on October 1, 2006, and terminating September 30, 2011, is hereby approved.

Section 3:- That the City Manager is hereby authorized to execute the Lease Agreement on behalf of the City and to do all things necessary and proper to carry out its terms.

Section 4:- That this ordinance shall be in effect from and after thirty (30) days from the date of its adoption.

LEASE AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2006, by and between **City of Norfolk**, (hereinafter referred to as the "Landlord"), and **Junior League of Norfolk-Virginia Beach, Inc.** (hereinafter referred to as the "Tenant").

WITNESSETH THAT:

Landlord, for and in consideration of the rents, covenants and agreements hereinafter mentioned, reserved and contained, to be paid, kept and performed by Tenant, has demised and leased and does hereby demise and lease unto Tenant, and Tenant does hereby lease and hire from Landlord, the land in the City of Norfolk, Virginia, located on 227 West Freemason Street, together with all improvements thereon. Said premises are more particularly described and shown on Exhibit A attached hereto and made a part hereof (the "Demised Premises").

1. **TERM OF LEASE**

Landlord leases to Tenant and Tenant leases from Landlord the Demised Premises for the term of five (5) years (the "Term") to commence October 1, 2006, (the "Commencement Date") and to end on September 30, 2011, (the "Termination Date"), unless sooner terminated.

2. **USE**

Tenant covenants and agrees to use and occupy the Demised Premises to provide offices for the Junior League of Norfolk-Virginia Beach, Inc.

3. **ACCEPTANCE OF PREMISES**

Tenant acknowledges that it is familiar with the Demised Premises and hereby agrees to accept the Demised Premises in their present condition, as is. Tenant further acknowledges that neither Landlord nor anyone on Landlord's behalf has made any

representations or warranties with respect to the condition of the Demised Premises, with the exception of the fact that the Demised Premises has been designated as an historic property.

4. **BASE RENT**

4.1 The rental payments will be an annual rent of \$1.00 per year.

4.1 The rent payments shall be paid by check or money order made payable to the City Treasurer and sent to the Manager of Real Estate in the Executive Department, 810 Union Street, City Hall Building, Norfolk, Virginia 23510.

5. **ADDITIONAL RENT**

5.1 Additional rent payable by Tenant shall include:

(a) leasehold taxes, assessments, water rents and other governmental charges, excluding charges arising from hazardous substances deposited prior to its tenancy assessed against or levied upon the Demised Premises or related to the use or occupancy thereof;

(b) notwithstanding anything in this agreement to the contrary, Tenant does not hereby become responsible or in any manner whatsoever assume liability for environmental conditions or liabilities existing prior to its occupancy hereunder.

5.2 Additional Rent shall be paid on or before the date when each becomes due, except Tenant may pay any tax, assessment, water rent or other governmental charge after it becomes due but before any penalty or interest accrues thereon. Tenant shall furnish to Landlord, within 30 days after the date upon which any such charge is payable by Tenant as hereinabove provided, official receipts of the appropriate taxing or governmental authority, or other proofs satisfactory to Landlord, evidencing the payment of Additional Rent. If Tenant shall fail to make any payment or to do any act required of it by any provision of this lease, Landlord may make such payment or do such act and the amount of such payment, or the cost of doing such act, together with interest thereon at the rate of 18% per annum, shall be deemed

Additional Rent payable by Tenant upon demand by Landlord. The making of any such payment or the doing of any such act by Landlord shall not constitute a waiver by Landlord of any right or remedy provided by this lease upon Tenant's default in the making of such payment or the doing of such act. All taxes, assessments, water rents and other governmental charges assessed against or levied upon the Demised Premises shall be apportioned as between Landlord and Tenant at the Commencement Date and Termination Date.

5.3 Tenant shall have the right to contest or review by appropriate proceedings or in any other manner permitted by law, at Tenant's sole cost and expense, in Tenant's name or in Landlord's name, or both, any tax, assessment or charge, and Landlord shall, without expense or charge to it, cooperate with Tenant and execute any documents or pleadings required for such purposes. If required by Landlord, Tenant shall furnish a surety company bond, or other security reasonably satisfactory to Landlord, against any liens by reason of such contest. The aforesaid contest by Tenant may include appeals from any judgments, decrees or orders until a final nonappealable determination shall be made by a court or governmental department or authority having jurisdiction in the matter.

6. **INSURANCE**

6.1 Tenant shall obtain and maintain Landlord's and Tenant's Public Liability Insurance for the joint and separate benefit of Landlord and Tenant, in an amount not less than \$500,000 for injury to or death of one person, \$1,000,000 for any one occurrence and \$50,000 for property damage, or in such higher limits as shall be reasonably required by Landlord.

6.2 Prior to the commencement Date, Tenant shall deliver to Landlord certificates evidencing the issuance of the policy required by Section 6.1 and also evidencing that the policy is then in effect. Tenant shall deliver original insurance policy to Landlord within 15

days from the date when Tenant is required to deliver the certificate. All insurance policies shall provide for 30 day's advance notice in writing to Landlord prior to cancellation or modification.

6.3 Tenant agrees to look solely to the proceeds of its' own insurer for indemnity against exposure for casualty losses of property or business interruption. Tenant warrants that its liability, property and business interruption insurers shall not have rights against Landlord by virtue of assignment, subrogation, loan agreement or otherwise.

7. **UTILITIES**

Tenant shall, at its own cost and expense, pay all utility meter and services charges, including but not limited to those for gas, sewer, electricity, water, and any deposits required by utility suppliers with respect to the Demised Premises.

8. **REPAIRS**

Tenant shall keep and maintain the Demised Premises in a good and complete state of repair and condition, except for ordinary wear and tear. All repairs shall:

- (a) be performed in a good and workmanlike manner,
- (b) be at least substantially equal in quality and usefulness to the original work,
- (c) not diminish the overall value of the Demised Premises.

9. **REQUIREMENTS OF PUBLIC AUTHORITIES**

Tenant shall suffer no waste or injury in or about the Demised Premises and shall comply with all federal, state and municipal laws, ordinances and regulations applicable to the use and occupancy of the Demised Premises, including, without limiting the generality of the foregoing, the making of any repairs that may be required in order to comply with said laws, ordinances and regulations include any and all compliance under The Americans

with Disabilities Act. In addition, Tenant shall effect the correction, prevention and abatement of nuisances, violations or other grievances in, upon or connected with the Demised Premises.

10. **LANDLORD'S RIGHT TO CURE**

Landlord and its agents and workmen shall have the right to enter onto and upon the Demised Premises at all reasonable times for the purpose of inspection and examination of the state or repair and condition thereof. Landlord may, but shall not be obligated to, make such repairs as shall be necessary as a consequence of any failure of Tenant to meet its obligations under this lease. The cost of any such repairs undertaken by Landlord, together with interest thereon at the rate of 18% per annum, shall be deemed to be Additional Rent payable by Tenant upon demand by Landlord. The making of any such repairs by Landlord shall not constitute a waiver by Landlord of any right or remedy provided by this lease upon Tenant's default in the making of repairs.

11. **INDEMNIFICATION**

Tenant shall indemnify and save harmless Landlord from all fines, penalties, costs, suits, proceedings, liabilities, damages, claims and actions of any kind arising out of the use and occupation of the Demised Premises, or by reason of any breach or nonperformance of any covenant or condition of this lease by Tenant. This indemnification shall extend to all claims by any person or party for death or injury to persons and damage to any property, and to legal expenses, including reasonable attorney's fees, incurred by Landlord in the defense of such claims or incurred by Landlord as a result of a breach of any provision of this lease by the Tenant.

12. **NON-LIABILITY OF LANDLORD**

Landlord shall not be liable for any damage or injury which may be sustained by Tenant or any other person as a consequence of the failure, breakage, leakage or

obstruction of the water, gas, sewer, waste or spoil pipes, drains, valleys, or the like: or by reason of the elements; or resulting from acts, conduct or omissions on the part of Tenant or of Tenant's agents, employees, guests, licensees, invitees, assignees or successors, or on the part of any other person or party.

13. **ALTERATIONS**

Tenant covenants and agrees that it will not make any improvements, changes, installations, renovations, additions or alterations in and about the Demised Premises without the prior written consent of Landlord. If Tenant installs or makes any improvements, additions, installations, renovations, and changes of the Demised Premises with the approval of and in such event, Tenant hereby agrees to remove any improvements, additions, installations, renovations, and changes of the Demised Premises upon termination of this lease. In the event the Tenant fails to do so, the Landlord may remove the improvements, additions, installations, renovations, changes and bill the Tenant for the cost of such removal. Tenant and Landlord agree that alterations made to the Demised Premises are intended to facilitate the adaptive reuse of the Demised Premises. Tenant and Landlord agree that any and all alterations to the Demised Premises will be made in accordance with the historic nature of the premises and neighborhood, and be subject to City review and approval processes.

14. **ASSIGNMENT AND SUBLETTING**

Tenant will not assign this lease or sublet the Demised Premises without obtaining Landlord's prior consent in writing. Any change in ownership or control of management of the Tenant, directly or indirectly, whether by merger, consolidation or otherwise, shall be deemed an assignment for the purposes of this section. If this lease be assigned with the consent of Landlord as aforesaid, or if the Demised Premises or any part thereof be underlet or occupied by anybody other than Tenant, Landlord may collect rent from the assignee,

undertenant or occupant and apply the net amount collected to the rent herein reserved; but notwithstanding such assignment, subletting or underletting, Tenant herein shall remain liable for the payment of Base Rent and Additional Rent reserved hereunder and for the performance of all obligations imposed upon Tenant by this lease.

15. **AIR AND WATER POLLUTION**

Tenant expressly covenants and agrees to indemnify, defend and save Landlord harmless against any claim, damage, liability, cost, penalty, or fine which Landlord may suffer as a result of air, noise or water pollution caused by Tenant in its use of the Demised Premises. Tenant covenants and agrees to notify Landlord immediately of any claim or notice served upon it containing any allegation that Tenant is causing air, noise, or water pollution. Tenant, in any event, will take immediate steps to halt, remedy or cure any such pollution caused by Tenant in connection with its use of the Demised Premises.

16. **COVENANT AGAINST LIENS**

Tenant agrees that it shall not encumber, or suffer or permit to be encumbered, the Demised Premises or the fee thereof by any lien, charge or encumbrance, and Tenant shall have no authority to mortgage or hypothecate this lease in any way whatsoever.

17. **ENVIRONMENTAL COMPLIANCE**

(a) For purposes of this section:

(i) "Hazardous Substances" include any pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials or hazardous substances as defined in or pursuant to the Resource and Conservation Recovery Act (42 U.S.C.1 SS6901 et seq.) (IIRCRAII), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. SS9601 et seq.) ("CERCLAII) or any other federal, state or local environmental law, ordinance, rule or regulation.

(ii) "Release" means releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping.

(iii) "Notice" means any summons, citation, directive, order, claim, litigation, investigation, proceeding, judgment, letter or other communication, written or oral, actual or threatened, from any authority of the Commonwealth of Virginia, the United States Environmental Protection Agency ("USEPA") or other federal, state or local agency or authority, or any other entity or any individual, concerning any intentional or unintentional act or omission resulting or which may result in the Releasing of Hazardous Substances into the waters or onto the lands of the Commonwealth of Virginia, or into waters outside the jurisdiction of the Commonwealth of Virginia or into the "environment", as such terms are defined in CERCLA. "Notice shall include the imposition of any lien on any real property, personal property or revenues of the Tenant, including but not limited to the Tenant's interest in the Demised Premises or any of Tenant's interest in the Demised Premises or any of Tenant's property located thereon, or any violation of federal, state or local environmental laws, ordinances, rules, regulations, governmental actions, orders or permits, or any knowledge, after due inquiry and investigation, of any facts which could give rise to any of the above.

(b) Tenant shall not cause or permit, as a result of any intentional or unintentional act or omission, a Release of Hazardous Substances on the Demised Premises. If any such intentional or unintentional act or omission results in such a Release of Hazardous Substances on the Demised Premises, Tenant shall promptly clean up and remediate such Release in accordance with the applicable federal, state and local regulations and to the satisfaction of a reasonable Landlord.

(c) Tenant shall comply with all applicable federal, state and local environmental laws, ordinances, rules and regulations, and shall obtain and comply with any and

all permits required thereunder or any successor or new environmental laws. Upon the receipt of any Notice, Tenant shall notify Landlord promptly in writing, detailing all relevant facts and circumstances relating to the Notice.

(d) Tenant hereby agrees to defend (with counsel satisfactory to Landlord) and to indemnify and hold Landlord harmless from and against any and all claims, losses, liabilities, damages and expenses (including, without limitation, reasonable cleanup costs and attorney's fees arising under this indemnity) which may arise directly or indirectly from any use or Release of Hazardous Substances on the Demised Premises and losses and claims against Landlord resulting from Tenant's failure to comply strictly with the provisions of this Section 20. The provisions of this Section 27 shall survive the expiration or earlier termination of this lease.

18. **SURRENDER BY TENANT AT END OF TERM**

18.1 Tenant will surrender possession of the Demised Premises and remove all goods and chattels and other personal property in the possession of Tenant, by whomsoever owned, at the end of the term of this lease, or at such other time as Landlord may be entitled to re-enter and take possession of the Demised Premises pursuant to any provision of this lease, and leave the Demised Premises in as good order and condition as they were at the beginning of the term, reasonable wear and tear excepted. In default of surrender of possession and removal of goods and chattels at the time aforesaid, Tenant will pay to Landlord the rent reserved by the terms of this lease for such period as Tenant either holds over possession of the Demised Premises or allows its goods and chattels or other personal property in its possession at such time to remain in the Demised Premises, and in addition thereto, statutory penalties and all other damages which Landlord shall suffer by reason of Tenant holding over in violation of the terms and provisions of this lease, including all reasonable claims for damages made by any succeeding tenant or purchaser of the Demised Premises against Landlord which may be founded

upon delay by Landlord in giving possession of the Demised Premises to such succeeding tenant or purchaser, so far as such damages are occasioned by the holding over of Tenant.

18.2 If Tenant fails to remove all goods and chattels and other personal property in possession of Tenant, by whomsoever owned, at the end of the term of this lease, or at such other time as Landlord may be entitled to re-enter and take possession of the Demised Premises pursuant to any provision of this lease, Tenant hereby irrevocably makes, constitutes and appoints Landlord as the agent and attorney-in-fact of Tenant to remove all goods and chattels and other personal property, by whomsoever owned, from the Demised Premises to a reasonably safe place of storage, such moving and storage to be at the sole cost and expense of Tenant, and Tenant covenants and agrees to reimburse and pay to Landlord all expenses which Landlord incurs for the removal and storage of all such goods and chattels. In addition, at the option of Landlord, Tenant shall be deemed to have abandoned such goods, chattels and other personal property and the same shall become the property of Landlord. Tenant shall reimburse and pay Landlord for all expenses incurred in the removing or disposing of the abandoned property.

18.3 No act or thing done by Landlord shall be deemed an acceptance of the surrender of the Demised Premises unless Landlord shall execute a written release of Tenant. Tenant's liability hereunder shall not be terminated by the execution by Landlord of a new lease of the Demised Premises.

19. **DEFAULT BY TENANT**

19.1 If before or during the term of this lease there shall occur any of the following events ("Events of Default"):

(a) if Tenant shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due, adjudicated a

bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or shall file an answer admitting or not contesting the material allegations of a petition against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or of any material part of its assets, and such appointment shall not have been vacated; or

(b) if, within 60 days after the commencement any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if, within 60 days after the appointment without the consent or acquiescence of Tenant of any trustee, receiver or liquidator of Tenant or of any material part of its assets, such appointment shall not have been vacated; or

(c) if the interest of Tenant in the Demised Premises shall be sold under execution or other legal process; or

(d) if Tenant shall fail to pay any installment of Base Rent or Additional Rent when due; or

(e) if Tenant shall fail to perform or observe any requirement, obligation, agreement, covenant or condition of this lease, other than the payment of any installment of Base Rent or Additional Rent, and any such failure shall continue for 15 days after Landlord gives Tenant notice thereof, or if such failure cannot be remedied within 15 days, then for a reasonable time thereafter, provided Tenant commences to remedy such failure within said 15-day period and prosecutes the same to completion with diligence; or

(f) if any representation or warranty contained in this lease shall prove to be incorrect in any material respect on the date upon which it was made; then at any time

following any of such Events of Default, Landlord, without waiving any other rights herein available to Landlord at law or in equity, may either (1) give Tenant notice of termination of this lease, or (2) without terminating this lease, give Tenant notice of Landlord's intention to re-enter and take possession of the Demised Premises, with or without legal process. The giving of either of such notices to Tenant shall terminate Tenant's right to possession of the Demised Premises under this lease without prejudice, however, to the rights of Landlord to exercise all other available legal remedies and without discharging Tenant from any of its liabilities hereunder.

19.2 If Landlord elects to terminate Tenant's right to possession of the Demised Premises under Section 19.1 following an Event of Default, Landlord may re-enter and take possession of the Demised Premises, with or without legal process, and Tenant hereby waives any claim for damages as a result thereof, and Tenant shall be obligated to pay to Landlord as damages upon demand, and Landlord shall be entitled to recover of and from Tenant:

(a) all Base Rent and Additional Rent which are in arrears as of the date of termination of Tenant's right to possession, plus

(b) the cost to Landlord of all reasonable legal and other expenses and costs (including attorney's fees) incurred by Landlord in obtaining possession of the Demised Premises, in enforcing any provision of this lease, in preserving the Demised Premises during any period of vacancy, in making such alterations and repairs to the Demised Premises as the Tenant was required to make pursuant to the terms of this lease and in reletting the Demised Premises, including all reasonable brokerage commissions therefor, plus

(c) either:

(i) in the event of Landlord's giving notice of its intention to re-enter and take possession without terminating this lease, damages (payable in monthly installments, in advance, on the first day of each calendar month following the giving of such

notice and continuing until the date originally fixed herein for the expiration of the then current term of this lease) in amounts equal to the Base Rent and Additional Rent herein reserved, less the net amount of rent, if any, which may be collected and received by Landlord from the Demised Premises for and during the balance of the term hereof; Landlord may relet the Demised Premises, or any part of parts thereof and Landlord may grant concessions or charge a rental in excess of that provided in this lease (Tenant shall have no right to any excess); or in the event of Landlord's giving notice of termination of this lease, an award for liquidated damages in an amount which, at the time of such termination, is equal to the excess, if any, of the installments of Base Rent and the aggregate of all sums payable hereunder as Additional Rent for the period which would otherwise have constituted the unexpired portion of the then current term of this lease, plus the value of all other considerations to be paid or performed by Tenant during such period, over the fair rental value of the Demised Premises, as of the date of such termination, for such unexpired portion of the then current term of this lease, or any part thereof be relet by Landlord for the unexpired term of this lease, or any part thereof, before presentation of proof of such liquidation damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall be deemed to be the fair and reasonable rental value for the part or the whole of the Demised Premises so relet during the term of the reletting. If Landlord shall elect to re-enter and take possession without terminating this lease, Landlord shall have the right at any time thereafter to terminate this lease for such previous default, whereupon the provisions of this subsection with respect to termination will thereafter apply.

19.3 Landlord may sue for and collect any amounts which may be due pursuant to the provisions of Section 19.2 above from time to time as Landlord may elect, but no such suit shall bar or in any way prejudice the rights of Landlord to enforce the collection of amounts due at any time or time thereafter by a like or similar proceeding.

19.4 Tenant agrees to pay all costs of proceedings by Landlord for the successful enforcement of any breach of the terms and conditions of this lease by the Tenant, including reasonable attorney's fees and expenses, which shall be deemed Additional Rent for the period with respect to which the Event of Default occurred, payable immediately upon the filing of any suit for possession or money damages.

19.5 No remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. The receipt and acceptance by Landlord of rent with knowledge of the default by Tenant in any of Tenant's obligations under this lease shall not be deemed a waiver by Landlord of such default. Nothing contained in this lease shall limit or prejudice the right of Landlord to prove for and obtain in proceedings for bankruptcy or insolvency an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to above.

19.6 No waiver of any Event of Default or any default in any covenant, agreement or obligation under this lease shall operate to waive or affect any subsequent Event of Default or default in any covenant, agreement or obligation hereunder, nor shall any forbearance to enforce a right or remedy upon an Event of Default or any such default be a waiver of any of its rights and remedies with respect to such or any subsequent default or in any other manner operate to the prejudice of either Party.

20. **LATE FEE**

For any payments of Base Rent or Additional Rent paid after the date such payments were due, Tenant shall pay a late fee of 5% of the amount not paid when due.

21. **CERTIFICATES BY TENANT**

Tenant agrees at any time and from time to time during the term of this lease, within ten (10) days after written request from Landlord, to execute, acknowledge and deliver to Landlord or to a third party a statement in writing certifying that this lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modification), and the dates to which the Base Rent, Additional Rent and other charges have been paid in advance, if any, and stating whether or not, to the best knowledge of Tenant, Landlord is in default in the performance of any covenant, agreement or condition contained in this lease, and, if so, specifying each such default of which Tenant may have knowledge. Such third party shall have the right to rely upon the contents of any such written statement of Tenant.

22. **NOTICES**

22.1 Whenever it is provided herein that notice, demand, request or other communication shall or may be given to or served upon either of the parties, or if either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or the Demised Premises, each such notice, demand, request or other communication shall be in writing, and, any law or statute to the contrary notwithstanding, shall be given or served as follows:

(a) if given or served by Landlord, either by hand delivery, overnight courier or by mailing the same to Tenant by registered or certified mail, postage prepaid, return receipt requested, addressed to Tenant at 227 West Freemason Street, Norfolk, Virginia 23510 or at such other address as Tenant may from time to time designate by notice given to Landlord in the manner herein provided; and

(b) if given or served by Tenant, by hand delivery, overnight courier or by mailing the same to Landlord by registered or certified mail, postage prepaid, return receipt requested, addressed to Manager of Real Estate at the Executive Department, 810 Union Street, City Hall Building, Norfolk, Virginia 23510 or at such other address as Landlord may from time to time designate by notice given to Tenant in the manner herein provided.

22.2 Every notice, demand, request or other communication hereunder shall be deemed to have been given or served at the time that the same shall be hand delivered or three (3) days after having been deposited in the United States mail, postage prepaid, in the manner aforesaid.

23. **COVENANTS AND CONDITIONS**

All of the terms and provisions of this lease shall be deemed and construed to be "covenants" and "conditions" to be performed by the respective parties as though words specifically expressing or importing covenants and conditions were used in each separate term and provision hereof.

24. **ENTIRE AGREEMENT**

This lease contains the entire agreement between the parties and shall not be modified in any manner except by an instrument in writing executed by the parties.

25. **APPLICABLE LAW**

This lease shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to its conflict of laws, principles and any suit arising out of this lease only shall be brought in the State or Federal Courts located in the State of

Virginia. In the event of any such suit, the parties hereto consent to the personal jurisdiction of such courts and waive any defense based on improper venue.

26. **BIND AND INURE CLAUSE**

The terms, covenants and conditions of this lease shall be binding upon and inure to the benefit of each of the parties hereto, and their respective successors and assigns.

27. **EDUCATIONAL & PUBLIC RESOURCE.**

Tenant agrees that the Premises shall be open to the public as an educational and public resource at times mutually agreeable to the parties.

28. **PRESERVATION/MAINTENANCE.**

It is understood and agreed by the Tenant that the leased premises have been preserved as a historic landmark and that the Tenant shall not change the design of either the interior or exterior of said premises.

Tenant agrees to maintain the existing fire alarm system at its cost and expense.

Tenant shall be responsible for all maintenance of the heating and air conditioning units.

Tenant will provide insurance on all personal property located in the Taylor-Whittle House as well as items listed on Schedule A that belong to the City of Norfolk.

Tenant shall be responsible for all electricity, water, sewage and heating oil costs. Landlord shall deliver heating oil to said premises and bill the Tenant for the amount delivered at its cost.

29. **RENOVATIONS.**

The estimated cost of the renovations for adaptive use of the Demised Premises is estimated to be Two Million Dollars (\$2,000,000.00). Tenant agrees to conduct a capital campaign and use its best efforts to raise One Million Dollars (\$1,000,000.00) for the

renovation and adaptive reuse of the premises with the renovations to be completed to the satisfaction of the Landlord and Tenant. Tenant will apply for and use State Historic Tax Credits as part of the capital campaign. The award of tax credits or other grants will be funding sources to capital campaign that will be conducted by Tenant. Other campaign efforts include foundation resources and private contributors. Landlord agrees that Tenant may request and City Council may consider, at its sole discretion, to provide up to One Million Dollars (\$1,000,000.00) as a match for the cost of renovations to the Demised Premises. If Landlord and Tenant agree to undertake a plan of renovations for the adaptive reuse of the Demised Premises, an Agreement will be put in place to accomplish the renovations.

30. Landlord shall be responsible for all structural repairs to the property with the exception of interior and exterior painting, plaster work, waterproofing the foundation, which shall be the responsibility of the Tenant.

At the Landlord's sole discretion, should structural repair be deemed excessive, Landlord may elect to not make the repair. If Landlord elects not to make a repair, then Tenant may at its option elect to complete that repair at its sole cost and expense, or terminate the lease.

In the event Landlord receives any grants that would be applied to renovations or repairs of the premises, the Tenant will still be obligated to perform repairs as set forth above.

IN WITNESS WHEREOF, the parties have executed or have caused this lease to be executed by their duly authorized officers and their corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

THE CITY OF NORFOLK

By: _____
City Manager

ATTEST:

City Clerk

**JUNIOR LEAGUE OF NORFOLK-
VIRGINIA BEACH, INC.**

By: _____

FORM & CORRECTNESS APPROVED:

Deputy City Attorney

APPROVED AS TO CONTENTS:

Executive